

TO: Scott Steinwert
FROM: Doug Day
DATE: February 20, 2004

ET-737
KB

RE: MT FW&P Update

On February 5, 2004, at the request of the Montana Department of Fish, Wildlife & Parks ("MT FW&P") Commission Chairman Dan Walker, a meeting was held with members of the MT FW&P in Helena to discuss topics noted in the Department's letter dated December 8, 2003. The MT FW&P letter was in response to TRRC letters dated July 14, 2003 and September 10, 2003. The following attended the meeting:

Dan Walker, Chairman MT FW&P Commission
Jeff Hagener – MT FW&P Director
Chris Hunter – Administrator, Fisheries Division
Larry Peterman – Chief of Field Operations
Gary Bertellotti – Hatchery Bureau Chief
Doug Day – TRRC

TRRC's September 10th letter attached draft proposals to address three issues raised by the MT FW&P: 1) protection of hatchery water supply pipelines; 2) weed control management plan; 3) coal dust emission and train speed.

In addition, the letter provided comment and discussion on three additional topics noted by MT FW&P: 4) alternative route analysis; 5) block management/conservation easement/fishing access; and, 6) hatchery baseline study.

The following summarizes the discussions in reference to the above topics during the February 5th meeting.

- 1) Protection of hatchery water supply pipelines – the proposed mitigation measure submitted as an attachment to the TRRC September 10th letter is acceptable to MT FW&P. It was noted that specifics of the design of the pipeline relocation will not be available until the final engineering and design phase of the project and that final design is subject to MT FW&P approval prior to start of construction.
- 2) Weed control management plan – prior to construction start, TRR is required to develop a weed control management plan in conjunction with appropriate state and local agencies. The plan will incorporate mechanical means of weed control in the right of way adjacent to the hatchery. If it becomes necessary to utilize herbicide application to control weed infestation along the right of way in proximity to the hatchery, the weed control plan is to include a process for MT FW&P approval prior to herbicide application. MT FW&P agrees with the approach provided that it is enforced and the agency is able to participate in the plan approval process. It was noted that TRRC is also required to develop a fire protection plan prior to construction.

- 3) Coal dust and train speed – TRRC provided information to the Department relative to coal dust emission analyses conducted pursuant to the DM&E EIS which supplemented the analyses previously conducted by Radian International. Based on the information provided, MT FW&P agrees that coal dust emissions will not be an issue. It was noted that the maximum TRR train speed in proximity to the hatchery will be approximately 20 mph in order for trains to navigate the curve and queue into BNSF main line traffic thus decreasing the likelihood of coal dust emissions and vibration.
- 4) Alternative route analysis – attached to the September 10th correspondence, TRRC provided copies of the alternative analyses conducted by the ICC in approving the Miles City to Ashland alignment. Further, it was noted that the Supplemental EIS in TRR III was to include a discussion of the screening process. No discussion of the topic occurred during the February 5th meeting.
- 5) Block management/conservation easement/ fishing access – TRR noted that STB mitigation conditions in TRR I and II include provisions to be implemented during ROW acquisition, including continuation of access and livestock passage, consideration for isolated parcels, etc. Copies of the prior ICC/STB mitigation conditions and a verified statement addressing the appraisal/acquisition process were provided to the Department. It was noted that the two conservation easements acquired by MT FW&P along the TRR alignment contain provisions addressing MT FW&P's role in the ROW acquisition process. MT FW&P expressed concern that they have been unable to gain fishing access points from MRL along the Yellowstone River west of Billings. It was noted that the relationship of the TRR alignment to the Tongue River was very different from the Yellowstone situation, in that there are few instances where the rail alignment lies between public access roads and the river. MT FW&P agreed the block management, conservation easement and fishing access topics should be addressed during the ROW acquisition process and are not related to the hatchery.
- 6) Hatchery baseline study – TRR provided information and aerial photos for a number of fish hatcheries (10) situated next to major rail lines. Based on conversations with hatchery personnel and the rail carriers, it was noted that rail impacts to these hatcheries have not occurred. Gary Bertellotti provided a copy of a long-term monitoring program to assess potential impacts from the TRR across the hatchery site. The proposal was prepared by Beard Environmental and Technical Assistance, LLC, Elliston, Montana. The proposal is being reviewed by TRRC.

The monitoring proposal offered by Gary Bertellotti mirrors an approach reported by David Braslau Associates, Inc. in the DM&E proceedings. Braslau Associates served as a consultant to the City of Mankato, MN in the DM&E. From what I have been able to gather, the Braslau report was submitted to the STB on behalf of the City of Mankato and a ground vibration impact study was then completed for the DM&E EIS. The ground vibration study

was completed by Wilson, Ihrig & Associates, Inc. Acoustical Consultants, Oakland, CA. The vibration study was submitted to Burns & McDonnell, 3rd party consultant responsible for preparing the EIS, and incorporated into the DM&E Draft EIS.

Based on a preliminary review, the findings of Braslau Associates and Wilson, Ihrig & Associates are consistent with the actual on-site investigations and findings reported by Womack & Associates in 1999. We are continuing to review and compare the monitoring proposal offered by Mr. Bertellotti, the DM&E vibration study findings, and the Womack & Associates study results in order to respond to the proposal of MT FW&P.

I have attached a copy of the information provided to the MT FW&P at the February 5th meeting.

Enclosures